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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,110	02/09/2001	Peter J. Potrebic	14531.86	2976

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EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED: 06/28/2007

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/781,110
Filing Date: February 09, 2001
Appellant(s): POTREBIC, PETER J.

JENS C. JENKINS
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/27/06 appealing from the Office action mailed 04/06/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 11/20/06 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: Claims 1-5, 9-23, 25, 26, 28-31 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wood et al (2003/0044165)** in view of **Knudson et al (2005/0273819)**, and further in view of **Abbott et al (5,973,679).**

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wood et al (2003/0044165)** in view of **Knudson et al (2005/0273819)**, and further in view of

Abbott et al (5,973,679) and further in view of **Yi (6,094,427),** (see pages 2-11 of the office action).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0044165	WOOD ET AL.	3-2003
2005/0273819	KNUDSON ET AL.	12-2005
5,973,679	ABBOTT ET AL.	10-1999
6,094,427	YI	7-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 9-23, 25, 26, 28-31 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Wood et al (2003/0044165)** in view of **Knudson et al (2005/0273819)**, and further in view of **Abbott et al (5,973,679).**

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wood et al (2003/0044165)** in view of **Knudson et al (2005/0273819)**, and further in view of **Abbott et al (5,973,679)** and further in view of **Yi (6,094,427),** (see pages 2-11 of the office action).

(10) Response to Argument

As to claims 1-5, 9-23, 25, 26, 28-31 and 33-35 rejected under 35 U.S.C. 103(a) as being unpatentable over **Wood** in view of **Knudson**, and further in view of **Abbott** is not founded because "...Examiner...by failing to identify in the prior art 1) a list of categories of fragmented programs; and 2) a unique identifier in the EPG data used to associate fragmented programs with category, the unique identifier being common among the fragmented programs in the category and separate and distinct from the title..." that "...Examiner has not established a prima facie case of obviousness..." that "...Abbott does not teach the unique identifier..." that "...Knudson reference does not teach the fragmented program list..." that "...Abbot reference does not teach the fragmented program list..." that "...Examiner erroneously relies on the doctrine of inherency to argue that wood teaches a 'unique identifier that is distinguished from a program title'..." etc., (see pages 10-20 of Appellant's Brief).

In response, Examiner respectfully disagrees. Examiner notes Appellant's arguments, however **Wood** discloses in figures 1-2, a video data recorder (VDR) having integrated channel guides for automatically recording TV programs or show, series, mini-series, etc., (the claimed "...fragmented program that includes a series of fragments that are temporally separated from each other and that have been designated as being related one to another where each fragment is broadcast to the entertainment system as separate and independent program from other related fragments..."), based on a user specified criteria, such as: show class "theme, etc." action, mystery, children, etc., specifying other criteria, e.g., "whether reruns are to be

recorded and whether syndicated reruns are to be recorded, etc.," Wood meets the claimed limitations as follows: providing a list (Processor 'Pro' 101, provides a listing or guide of shows to a display, figs 7-10) of categories that includes a Show, Series or Mini-Series (Shows) "one or more fragmented programs" for a user (page 3, [0045-0049]). Wood further discloses that, upon receiving a user selection of a show(s) (via User Interface 'UI'), Pro-101 identifies the Show(s), start time, etc., and groups these shows using a unique identifier associated with the Show(s) that identifies these groups or classes (page 2, [0038-0045] and [0054-0055). For example, if a user selects to record a Show(s), such as Scooby Doo, etc., (a series, mini-series or the claimed fragmented program) the EPG data identifies the Show(s) for recording and records the program based on the selected criteria (class, theme, etc.,) using a unique identifier or code. Wood further displays a pop-up alphabetical menu of all Show titles, actor/actress, director, etc., in the channel guide database 103 (page 3, [0046-0049]) and further teaches storing personal channels for recording of comedy, sporting events, movies, cooking shows, etc., (page 4, [0060-0061]), but fails to explicitly teach displaying a list of selected Show category or categories that is scheduled to be displayed during a specific period of time where the EPG data used to identify the one or more fragmented programs includes a unique identifier that is specific to a fragmented program and is common to each fragment within a corresponding fragmented program and such that each fragment corresponding to the fragmented program have a same unique identifier and that is distinguished from a program title. However, this deficiency is discloses in **Knudson** reference, which discloses in the

same field of endeavor, i.e., recording series, mini-series "fragmented program..." displaying a set, group or list of series/episodes or programs that are scheduled to be displayed during a specific period of time (figs.4-5, 10-12, page 4, [0050-0051], [0083-0084] and [0088-0091]). Wood as modified by Knudson, fail to explicitly teach the claimed "a unique identifier...is distinguished and independent from the a program title..." However, in the same field of endeavor **Abbott** discloses system and method for media stream indexing of movies, shows, concert, etc., and assigns a unique series identifier or series ID to a series (col.4, line 53-col.5, line 3, col.7, lines 12-20 and col.20, line 66-col.21, line 11). Hence, the combination of Wood, Knudson and Abbott with respect to clams 1-5, 9-23, 25, 26, 28-31 and 33-35 meet all limitations, is proper, and should be sustained.

With respect 32, Wood as modified by Knudson and Abbott, fail to explicitly teach where the fragmented programs includes a plurality of corresponding fragments which are broadcast over a plurality of different networks. However, **Yi** discloses in figures 4 and 7-9, a communications system between satellite beams and/or satellites where fragmented digital data, such as voice, image, video, text file or multimedia includes a plurality of corresponding fragments which are broadcast over a plurality of different networks (col.11, lines 59-67, col.12, lines 38-52 and col.13, line 24-col.14, line 1+). Hence, the combination of Wood, Knudson, Abbott and Yi with respect to clam 32 meets all limitations, is proper, and should be sustained.

With respect to Appellant's arguments as to "...Examiner has not established a prima facie case of obviousness..." Examiner maintains the test for obviousness is not

whether the features of a secondary reference may be bodily incorporate into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. In this instant Wood, Knudson, Abbott and Yi are in the same field of endeavor, i.e., recording TV programs, shows or video and reproducing the recorded programs and one of ordinary skilled artisan would have been motivated to combine the references for the reasons discussed above and in the final office action of 04/06/06. Furthermore it appears Appellant's arguments are directed against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Hence, the 103(a) rejection of claims 1-5, 9-23, 25, 26 and 28-35, meet all limitations, is proper, and should be sustained.

(11) Related Proceeding(s) Appendix

None

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Annan Q. Shang

Conferees:

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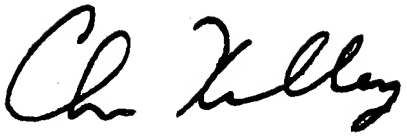

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